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WALGREEN CO.

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 LUISA HEHRER, as an individual and
13 on behalf of all others similarly situated,

14 Plaintiffs,

15 v.

16 WALGREEN CO., an Illinois
17 corporation, and DOES 1 through 100,
inclusive,

18 Defendants.
19
20
21
22

ED CV 11 - 00340 VAP (JEMx)
CASE NO.

DEFENDANT'S NOTICE OF
REMOVAL

[CLASS ACTION FAIRNESS ACT
OF 2005, DIVERSITY, 28 U.S.C. §
1332 AND 1441]

[Riverside Superior Court Case No.
RIC 1100468]

[Filed concurrently with Certificate of
Interested Parties, Civil Cover Sheet
and Disclosure Statement Pursuant to
Fed. R. Civ. Proc. 7.1]

Complaint filed: Jan. 12, 2011

23 TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL
24 DISTRICT OF CALIFORNIA AND TO PLAINTIFF AND HER COUNSEL OF
25 RECORD:

26 PLEASE TAKE NOTICE that Defendant Walgreen Co. ("Walgreens" or
27 "Defendant") hereby removes the above-referenced action from the Superior Court
28 of the State of California for the County of Riverside, to the United States District

1
NOTICE OF REMOVAL

2011 FEB 25 PM 2:43
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

FILED

By Fax

1 Court for the Central District of California asserting original jurisdiction under 28
 2 U.S.C. §§1332(d)(2) (the Class Action Fairness Act of 2005 ("CAFA")), diversity
 3 jurisdiction under 28 U.S.C. §1332(a) and (c), and removal jurisdiction under 28
 4 U.S.C. §§1441(a) and 1446, and states that removal is proper for the following
 5 reasons.

6 BACKGROUND

7 1. Plaintiff Luisa Hehrer ("Plaintiff") filed this action against Walgreens
 8 on January 12, 2011 in the Superior Court for the County of Riverside, case
 9 entitled: *Luisa Hehrer, et al. v. Walgreen Co., et al.*, Case No. RIC 1100468 (the
 10 "Complaint"). A true and correct copy of the Summons and Complaint and Civil
 11 Case Cover Sheet in this action are attached hereto as Exhibit A.

12 2. In her Complaint, Plaintiff purports to allege on behalf of herself and
 13 a putative class of Walgreens store managers employees in California that
 14 Walgreens failed to pay them overtime in violation of California Labor Code §§
 15 1194 and 510 (First Cause of Action), failed to allow and pay them for meal and
 16 rest periods as required by California Labor Code §§226.7 and 512 (Second Cause
 17 of Action), failed to provide them with accurate itemized wage statements as
 18 required by California Labor Code §226 (Third Cause of Action), and failed to
 19 timely pay them all wages due at the time of termination as required by California
 20 Labor Code §§201-203 (Fourth Cause of Action). Plaintiff further alleges
 21 Walgreens' alleged conduct constitutes unfair competition in violation of
 22 California Business and Professions Code §§17200 *et seq.* (Fifth Cause of Action).

23 3. On January 12, 2011, the Court served its Notice of Assignment to
 24 Department for Case Management Purposes and Case Management Conference. A
 25 true and correct copy of the Court's Notice of Assignment is attached hereto as
 26 Exhibit "B."

27 4. On January 27, 2011, Plaintiff served the Summons and Complaint on
 28 Defendant's agent. A true and correct copy of Plaintiff's purported Proof of

1 Service Summons filed February 16, 2011, is attached hereto as Exhibit "C."

2 5. On February 24, 2011, Walgreens served and filed its Answer to the
3 Complaint asserting a general denial of Plaintiff's allegations and affirmative
4 defenses. A true and correct copy of Walgreens' Answer to the Complaint is
5 attached hereto as Exhibit "D."

6 6. On February 25, 2011, Walgreens served and filed its Peremptory
7 Challenge Pursuant to Cal. Code of Civ. Proc. §170.6. A true and correct copy of
8 Walgreens' Peremptory Challenge Pursuant to Cal. Code of Civ. Proc. §170.6 is
9 attached hereto as Exhibit "E."

10 7. Exhibits A through E constitute all pleadings, process and orders
11 served on or by Defendant in this action.

12 CLASS ACTION FAIRNESS ACT ("CAFA")

13 PUTATIVE CALIFORNIA CLASS

14 8. This Court has original jurisdiction of this action under CAFA,
15 codified in pertinent part at 28 U.S.C. §1332(d)(2). As set forth below, this action
16 is properly removable, pursuant to 28 U.S.C. §1441(a), in that the district court has
17 original jurisdiction over the action, because the aggregated amount in controversy
18 exceeds \$5,000,000, exclusive of interest and costs, and the action is a class action
19 in which at least one class member is a citizen of a state different from that of
20 Walgreens. 28 U.S.C. §§1332(d)(2) & (d)(6). Furthermore, the number of
21 California putative class members is greater than 100. See Declaration of June
22 Rosenberg ("Rosenberg Dec.") ¶ 2(a), attached hereto as Exh. F; 28 U.S.C.
23 §1332(d)(5)(B). Further, based on information and belief, Plaintiff and a number
24 of the putative California members are citizens of California.

25 A. Citizenship of the Parties

26 9. **Plaintiff's Citizenship.** Plaintiff is a resident of Riverside County
27 California. Complaint ¶¶ 4-5. Based on information and belief Plaintiff is a
28 citizen of California. Residence is *prima facie* evidence of domicile. *See State*

1 *Farm Mut. Auto Ins. Co. v. Dyer*, 19 F.3d 514, 520 (10th Cir. 1994).

2 10. **Walgreens' Citizenship.** Pursuant to 28 U.S.C. Section 1332(c), "a
3 corporation shall be deemed to be a citizen of any State by which it has been
4 incorporated and of the State where it has its principal place of business."
5 Walgreens is now, and ever since this action commenced has been, incorporated
6 under the laws of the State of Illinois, with its principal place of business in
7 Illinois. Complaint ¶ 8; see also Exh. G, John Mann Declaration ("Mann Dec.") ¶
8 2. Walgreens' principal place of business is Deerfield, Illinois under the "nerve
9 center" test. *Hertz Corp. v. Friend*, 130 S. Ct. 1181, 1192 (2010). As Deerfield,
10 Illinois is the site of Walgreens' corporate headquarters and executive offices,
11 where Walgreens' high level officers direct, control, and coordinate the
12 Company's activities, Walgreens' "nerve center" is in Illinois. Exh. G, Mann Dec.
13 ¶ 3. Accordingly, Walgreens is, and has been at all times since this action
14 commenced, a citizen of the State of Illinois. As a result, Walgreens is not now,
15 and was not at the time of the filing of the Complaint, a citizen of the state of
16 California for removal purposes.

17 11. **Doe Defendants.** Pursuant to 28 U.S.C. §1441(a), the residence of
18 fictitious and unknown defendants should be disregarded for purposes of
19 establishing removal jurisdiction under 28 U.S.C. §1332. *Fristos v. Reynolds*
20 *Metals Co.*, 615 F.2d 1209, 1213 (9th Cir. 1980) (unnamed defendants are not
21 required to join in a removal petition). Thus, the existence of Doe defendants one
22 through one hundred, does not deprive this Court of jurisdiction.

23 **B. Amount in Controversy Exceeds \$5,000,000.**

24 12. The claims of the individual members in a class action are aggregated
25 to determine if the amount in controversy exceeds the sum or value of \$5,000,000,
26 even when considering the state law claims only. 28 U.S.C. §1332(d)(6). In
27 addition, Congress intended for federal jurisdiction to be appropriate under CAFA
28 "if the value of the matter in litigation exceeds \$5,000,000 either from the

1 viewpoint of the plaintiff or the viewpoint of the defendant, and regardless of the
2 type of relief sought (*e.g.*, damages, injunctive relief, or declaratory relief).”
3 Senate Judiciary Committee Report, S. REP. 109-14, at 49. Moreover, the Senate
4 Judiciary Committee’s Report on the final version of CAFA makes clear that any
5 doubts regarding the maintenance of interstate class actions in state or federal court
6 should be resolved in favor of federal jurisdiction. S. REP. 109-14, at 49 (“[I]f a
7 federal court is uncertain about whether ‘all matters in controversy’ in a purported
8 class action ‘do not in the aggregate exceed the sum or value of \$5,000,000,’ the
9 court should err in favor of exercising jurisdiction over the case Overall, new
10 section 1332(d) is intended to expand substantially federal court jurisdiction over
11 class actions. Its provisions should be read broadly, with a strong preference that
12 interstate class actions should be heard in a federal court if properly removed by
13 any defendant.”).

14 13. Although Plaintiff has not alleged the amount of her individual
15 damages, or alleged the damages of the putative class in her Complaint, it is clear
16 that the alleged amount in controversy in this putative class action exceeds, in the
17 aggregate, \$5,000,000. The Complaint alleges a California putative class of
18 Walgreens California store managers or similar employees during the four-year
19 period preceding the filing of the Complaint, from January 12, 2007, through and
20 including the present. Exh. A, Complaint ¶¶ 7, 18. During the period of January
21 12, 2007 through February 22, 2011, Walgreens employed approximately 677
22 persons who managed its stores in California and fit the description of the putative
23 class members in Plaintiff’s Complaint. Exh. A, Complaint ¶18, Exh. F,
24 Rosenberg Dec. ¶ 2(a). As set forth below, even based on conservative estimates,
25 the amount in controversy implicated by the class-wide allegations exceeds
26 \$5,000,000.

27 14. Walgreens denies that Plaintiff or the putative class is entitled to
28 anything by the Complaint, as Plaintiff’s claims rest on faulty assumptions and

erroneous legal conclusions. Nevertheless, the amount in controversy is dictated by Plaintiff's claims, not the merits. Plaintiff alleges multiple sources of state law potential remedies and penalties in the Complaint: (1) allegedly unpaid overtime wages; (2) meal and rest break premium pay; (3) waiting time penalties; (4) wage statement penalties and (5) penalties pursuant to the California Labor Code Private Attorney General Act ("PAGA"). Exh. A, Complaint ¶ 2, Prayer ¶¶ 4-5. In addition, Plaintiff seeks nominal, actual, compensatory and punitive damages, injunctive relief (disgorgement of profits), disbursements, interest, costs and attorney's fees. Exh. A, Complaint ¶¶ 37-38, 48, 53, Prayer ¶¶ 1-3, and 6-8.

15. In 2011 (January 1 through February 22), Walgreens store managers earned an average base salary of \$73,860.20. In 2010, Walgreens store managers in California earned an average base salary of \$74,171.33. Exh. F, Rosenberg Dec., ¶ 2(f). In 2009, Walgreens store managers in California, earned an average base salary of \$73,392.33. *Id.* In 2008, Walgreens store managers in California earned an average base salary of \$72,847.75. *Id.* In 2007, Walgreens store managers in California earned an average base salary of \$69,826.36. *Id.* The average corresponding hourly rate of the California putative class members in 2011 is \$35.50/hour.¹ The average corresponding hourly rate of the California putative class members in 2010 is approximately \$35.65/hour, \$35.28/hour in 2009, \$35.02/hour in 2008, and \$33.57/hour in 2007. The average corresponding hourly rate for the California putative class members between 2007 and 2011 is \$35.00.

16. Throughout the putative class period, Walgreens has employed approximately 677 California store manager employees during the period of January 12, 2007 through February 22, 2011. These employees worked approximately 100,138 workweeks (assuming 48 out of 52 workweeks per year to

¹ The corresponding hourly rates set forth herein are calculated by dividing the average annual salary for each respective year in the putative class period by 52 weeks per year to determine the weekly salary, and then further dividing by 40 hours per week to arrive at the hourly rate.

1 account for any vacation or time off store managers may have taken during the
2 year) during the period of January 12, 2007 through the present (the alleged
3 putative class period applicable to Plaintiff's overtime claims under Cal. Labor
4 Code §§ 1194 and 510 and meal and rest period claims under Cal. Labor Code
5 §§226.7 and 512).

6 17. Walgreens employed approximately 587 California store managers
7 during the period of January 12, 2010 and February 22, 2011. These employees
8 worked a total of approximately 7, 973 pay periods (pay periods are one every
9 month) during the period of January 12, 2010 through February 22, 2011 (the
10 putative class period applicable to Plaintiff's claims for penalties for deficient
11 wage statements under Cal. Labor Code §226 and penalties under PAGA). See
12 Exh. F, Rosenberg Dec. ¶ 2(b).

13 18. In addition, approximately 63 Walgreens California store managers
14 separated their employment during the period of January 12, 2008 and December
15 13, 2010 (the putative class period applicable to Plaintiff's claims for waiting time
16 penalties under Cal. Labor Code §§ 201-203). *Id.* at ¶ 2(e).

17 19. Based on the number of California putative class members, the
18 number of work weeks and pay periods worked by the putative class members
19 during the respective putative class periods, the number of separated putative class
20 members and Plaintiff's claims, the amount in controversy for unpaid wages,
21 missed meal and rest breaks, deficient wage statements, PAGA penalties and
22 waiting time penalties as alleged in the Complaint exceeds \$5,000,000. As
23 Plaintiff has not alleged her particular damages, reasonable estimates of the alleged
24 amount in controversy are appropriate. See *Abrego v. The Dow Chemical Co.*,
25 443 F.3d 676, 688-90 (9th Cir. 2006) (the preponderance of evidence standard
26 applies where a plaintiff "seeks no specific amount in damages," and a court will
27 consider facts in the removal petition to determine whether the jurisdictional
28 requirements are met).

1 **C. Labor Code §226(e)**

2 20. The Complaint alleges that Walgreens failed to provide the California
3 Class members with accurate itemized wage statements, in violation of California
4 Labor Code §226(a). Exh. A, Complaint ¶¶ 49-53. Plaintiff alleges that under
5 Labor Code §226(e) she and the putative class members may recover penalties in
6 the amount of \$50 for the initial pay period in which the violation occurred, and
7 \$100 for each violation in a subsequent pay period pursuant to Labor Code §226,
8 according to proof, up to \$4,000.00. Exh. A, Complaint ¶¶ 50, 52-53. The statute
9 of limitations for recovery of penalties under Labor Code §226 is one year. Cal.
10 Civ. Proc. Code §340(a).

11 21. Courts have assumed a 100% violation rate in calculating the amount
12 in controversy for removal purposes when the complaint does not allege a more
13 precise calculation. See, e.g., *Coleman v. Estes Express Lines, Inc.*, 2010 U.S.
14 Dist. LEXIS 79772 at *18-19 (C.D. Cal. 2010) (“Plaintiff included no limitation on
15 the number of violations, and, taking his complaint as true, Defendants could
16 properly calculate the amount in controversy based on a 100% violation rate);
17 *Muniz v. Pilot Travel Centers LLC*, 2007 U.S. Dist. LEXIS 31515 at *11-13 (E.D.
18 Cal. 2007) (concluding that plaintiff was the “master of [her] claims, and if she
19 wanted to avoid removal, she could have alleged facts specific to her claims which
20 would narrow the scope of the putative class or the damages sought.” *Id.* at 13).

21 22. Based on Cal. Labor Code §226(e) (which provides that damages are
22 the greater of all actual damages or \$50 for the first violation and \$100 for every
23 violation thereafter, per employee, up to \$4,000) and Plaintiff’s allegation, the
24 money allegedly owed would equal \$4,000 x 587 (approximate number of store
25 managers employed from January 12, 2010 through January 12, 2011) or
26 \$2,348,000.

1 **D. PAGA Penalties**

2 23. In her Prayer, Plaintiff seeks to recover penalties under PAGA. Exh.
3 A, Complaint Prayer ¶ 5. PAGA provides for penalties consisting of \$100 for an
4 initial violation in a pay period and \$200 per pay period for each subsequent
5 violation. See Cal. Labor Code § 2699(f)(2). Thus, based on Plaintiff's Prayer, the
6 penalties recoverable are 587 (California store managers employed for at least one
7 pay period during the period of January 12, 2010 through February 22, 2011) x
8 \$100 = \$58,700.00 + (7,386.00[subsequent store manager pay periods during the
9 period of January 12, 2010 through February 22, 2011]² x \$200 = \$1,477,200) =
10 \$1,535,900.

11 **E. Labor Code §203 (Waiting Time Penalties)**

12 24. In addition, Plaintiff seeks waiting-time penalties under California
13 Labor Code §203 for the putative class for each separated employee. Exh. A,
14 Complaint ¶¶ 46-48, Prayer p. 4. Plaintiff and putative class members seek
15 statutory penalties under Labor Code §203 of up to 30 days' pay for failure to pay
16 all wages due at termination Exh. A, Complaint ¶¶ 46-48, Prayer, p. 4. Plaintiff
17 alleges that Walgreens did not pay Plaintiff or putative class members wages due
18 for missed meal and rest periods and overtime. Exh. A, Complaint ¶¶ 44, 47.
19 Therefore, per the allegations in the Complaint, Plaintiff seeks 30 days' wages for
20 each putative California class member whose employment separated more than
21 thirty days prior to the filing of the Complaint.

22 25. There is a three-year statute of limitations for claims seeking waiting
23 time penalties for unpaid wages under Cal. Labor Code §203. See Cal. Lab. Code
24 §203 and Cal. Code Civ. Proc. §338.

25
26
27 ² The number of subsequent California store manager pay periods is arrived at by
28 dividing 31,890 (which is the approximate number of store manager workweeks
during the period of January 12, 2010 and February 22, 2011) by four (since store
managers are paid once per month) and then subtracting 587.

26. From January 12, 2008 through December 13, 2010 (which is 30 days prior to the filing of the Complaint), there are approximately 63 California store managers who separated their employment with Walgreens. Exh. F, Rosenberg Dec., ¶ 2(e). The average California store manager hourly rate of pay is approximately \$35.36 (based on an average annual salary \$73,567.90 for the period of 2008 to 2010). Thus, the penalties sought under section 203 (based on a calculation of average hourly rate (\$35.36) x (8 hours per day) x (# of days before payment (30) x 63 # of separated employees) = \$534,643.20.

27. Taken together, the potential penalties under Cal. Labor Code §§203, PAGA and 226(e) alone are \$4,418,543.20 (\$534,643.20 + \$1,535,900 + \$2,348,000). Plaintiff seeks additional damages for alleged failure to provide meal and rest breaks in violation of Labor Code §226.7, failure to pay overtime, plus an undisclosed amount for interest, costs, disgorgement of profits, disbursements, nominal, compensatory and punitive damages, and attorney's fees. It is more likely than not that the amount in controversy exceeds \$5,000,000 because if just any one of the following factors is also considered, then the amount in controversy will exceed \$5,000,000. All of these factors can be considered based on Plaintiff's allegations.

F. Unpaid Overtime Compensation

28. Plaintiff alleges that Plaintiff and the putative California class members "regularly and/or consistently worked in excess of twelve (12) hours in a day" and that Walgreens failed to pay for overtime wages owed to Plaintiff and the putative California class members. Exh. A, Complaint ¶¶ 2, 13, 34, 36. California store managers typically work at least five days per week. Declaration of William Hose ("Hose Dec.") ¶ 3 attached hereto as Exh. H. Although Plaintiff alleges that she and the putative class members regularly worked in excess of twelve hours per day and hence would have worked in excess of twenty hours of overtime per week, even using a conservative estimate of one hour of unpaid

1 overtime compensation per week (which is far less than Plaintiff alleges), the
 2 amount in controversy would be the sum of \$5,257,245.00 (based on 100,138
 3 workweeks — which assumes store managers worked an average of 48 workweeks
 4 per year — during the period of January 12, 2007 through February 22, 2011) x
 5 (one overtime hour/week) x (\$35.00 average hourly wage) x (1.5 overtime
 6 premium multiplier)).

7 **G. Unpaid Meal/Rest Break Compensation**

8 29. Plaintiff seeks separate payments for 1) denial of meal periods and 2)
 9 denial of rest breaks. Exh. A, Complaint ¶¶ 2, 44. California store managers
 10 typically work at least five days per week. Exh. H, Hose Dec. ¶ 3. Plaintiff
 11 alleges that “[p]ursuant to California *Labor Code* § 512(a), an employer may not
 12 employ an employee for a work period of more than five hours per day without
 13 providing the employee with a meal period of not less than 30 minutes” and that
 14 pursuant to Labor Code §226.7 “no employer shall require any employee to work
 15 during any meal or rest period mandated by an applicable [wage] order of the
 16 Industrial Welfare Commission.” Exh. A., Complaint ¶¶ 41-42. Plaintiff further
 17 alleges that “the Industrial Welfare Commission Order and California *Labor Code*
 18 §§ 226.7 and 512(a) were applicable to Plaintiff and the other class members’
 19 employment by Defendants.” Exh. A., Complaint ¶ 40.

20 30. The applicable Industrial Welfare Commission (“IWC”) Wage Order
 21 provide in pertinent part with regard to meal periods that “[n]o employer shall
 22 employ any person for a work period of more than five (5) hours without a meal
 23 period of not less than 30 minutes ...[and] [i]f an employer fails to provide an
 24 employee with a meal period in accordance with the applicable provisions of this
 25 order, the employer shall pay the employee one (1) hour of pay at the employee’s
 26 regular rate of compensation for each workday that the meal period is not
 27 provided.” Wage Order 7, § 11. The applicable IWC Wage Order further
 28 provides in pertinent part as to rest periods that “[e]very employer shall authorize

1 and permit all employees to take rest periods” and “[t]he authorized rest period
 2 time shall be based on the total hours worked daily at the rate of ten (10) minutes
 3 net rest time per four (4) hours or major fraction thereof.” *Id.* at § 12.

4 31. The money owed for a meal period or rest break that is not provided
 5 is one hour of pay. Cal. Labor Code §226.7. Plaintiff alleges the “Defendants
 6 routinely interrupted and/or failed to permit, authorize and/or provide Plaintiff’s
 7 and the Class Members’ meal breaks. *Id.* at ¶ 43. Plaintiff further alleges that
 8 putative class members are entitled to one hour of pay at the regular rate for each
 9 meal period missed and one hour of pay at the regular rate for each rest period
 10 missed. Exh. A, ¶ 44. Based on these allegations, even assuming conservatively
 11 that Plaintiff alleges just one missed meal period per week to Plaintiff and the
 12 putative class members, the amount in controversy for the alleged denial of meal
 13 periods would be \$3,504,830.00 (based on 100,138 workweeks — which assumes
 14 store managers worked an average of 48 workweeks per year — during the period
 15 of January 12, 2007 through February 22, 2011 x (\$35.00 average hourly wage).
 16 Based on Plaintiff’s allegation that the putative class is entitled to premium pay for
 17 missed rest breaks, based on a conservative estimate that the putative class
 18 members missed only one of ten rest periods per week, the calculation would be
 19 the same for one missed rest period per week: \$3,504,830.00.

20 32. Thus, the total amount in controversy based on Plaintiff’s alleged
 21 violations of the California Labor Code is \$16,685,448.20 (\$4,418,543.20
 22 [attributable to PAGA and Cal. Labor Code §§ 203 and 226 penalties] +
 23 \$5,257,245.00 [overtime compensation] + \$3,504,830.00 [meal period premium
 24 pay] + \$3,504,830.00 [rest period premium pay]).

25 **H. Attorney’s Fees**

26 33. Although the foregoing alone establishes by a preponderance of the
 27 evidence that the amount in controversy exceeds \$5 million, attorney’s fees, are
 28 also recoverable for Plaintiff’s wage claims, and therefore, must also be taken into

1 account in ascertaining the amount in controversy. See *Galt G/S v. JSS*
 2 *Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998) (claims for statutory attorney's
 3 fees to be included in amount in controversy, regardless of whether award is
 4 discretionary or mandatory). Fees could be as much as thirty percent of the
 5 judgment. See *In re Rite Aid Corp. Securities Litigation*, 396 F.3d 294, 303 (3d
 6 Cir. 2005) (noting study done by the Federal Judicial Center that found a median
 7 percentage recovery range of 27-30% for all class actions resolved or settled over a
 8 four-year period).

9 34. Because diversity of citizenship exists, the Plaintiff being a citizen of
 10 the State of California and the Defendant being a citizen of the State of Illinois, the
 11 number of putative class members is over 100, and the amount in controversy
 12 exceeds \$5,000,000, this Court has original jurisdiction of the action pursuant to 28
 13 U.S.C. §1332(d). This action is therefore a proper one for removal to this Court.

14 DIVERSE CITIZENSHIP OF THE PARTIES

15 PLAINTIFF'S INDIVIDUAL CLAIMS

16 35. As is set forth above in paragraphs 9 and 10 above, Plaintiff is a
 17 Citizen of California and Walgreens is a citizen of Illinois.

18 36. This is also a civil action over which this Court has original
 19 jurisdiction under 28 U.S.C. §1332(a), and is one which may be removed to this
 20 Court by defendant pursuant to 28 U.S.C. §§1367 and 1441(b) in that this action
 21 involves citizens of different states and the amount in controversy exceeds the sum
 22 of \$75,000, exclusive of interest and costs. An action may be removed if the
 23 defendant establishes, by a preponderance of the evidence that the amount in
 24 controversy exceeds the jurisdictional amount. *Guglielmino v. McKee Foods*
 25 *Corp.*, 506 F.3d 696, 699 (9th Cir. 2007).

26 37. As is discussed above, in determining the amount in controversy, the
 27 Court must consider the recovery sought, including penalties, as well as
 28 recoverable statutory attorneys' fees. *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150,

1 1156 (9th Cir. 1998) (claims for statutory attorneys' fees to be included in amount
2 in controversy, regardless of whether such an award is discretionary or
3 mandatory); *Davenport v. Mutual Benefit Health & Accident Ass'n*, 325 F.2d 785,
4 787 (9th Cir. 1963) (punitive damages must be taken into account where
5 recoverable under state law).

6 38. While Walgreens denies liability as to Plaintiff's claims, Walgreens
7 has a reasonable, good faith belief that the amount in controversy, as to Plaintiff's
8 individual claims alone as alleged and pled in this action, exceeds Seventy-Five
9 Thousand Dollars (\$75,000), exclusive of interest and costs.

10 39. Plaintiff was employed by Walgreens in California as a Store
11 Manager from May 24, 2008 through March 19, 2010. Exh. F, Rosenberg Dec. ¶3.
12 Plaintiff's employment with Walgreens was separated as of March 19, 2010. *Id.*

13 40. Plaintiff was paid an annualized base salary of \$59,040.00 during the
14 period of May 24, 2008 and September 30, 2008; \$63,120.00 during the period of
15 October 1, 2008 and September 30, 2009; and \$65,520.00 during the period of
16 October 1, 2009 through March 19, 2010. *Id.* Plaintiff's annual base salary during
17 these periods may be broken down into an hourly rate dividing her annual base
18 salary by the number of work weeks during the calendar year and then by dividing
19 by 40 hours per work week. Broken down into hourly rates, Plaintiff was paid as
20 follows: from May 24, 2008 through September 30, 2008 (approximately 18
21 weeks), Plaintiff was paid an annual base salary of \$59,040.00, which is equivalent
22 to a rate of \$28.38 per hour; from October 1, 2008, through September 30, 2009
23 (52 weeks), Plaintiff was paid an annual base salary of \$63,120.00, which is
24 equivalent to a rate of \$30.34 per hour; from October 1, 2009 through March 19,
25 2010 (approximately 24 weeks) Plaintiff was paid an annual base salary of
26 \$65,520.00, which is equivalent to a rate of \$31.50 per hour. *Id.* Plaintiff's
27 average annual base salary during her entire employment a Walgreens Store
28

1 Manager in California is approximately \$62,560.00. Her average corresponding
2 average hourly rate is \$30.07.

3 41. Plaintiff alleges that she and other Walgreens Store Managers
4 "regularly and/or consistently" worked in excess of twelve (12) hours each
5 workday. Exh. A, Complaint ¶ 34. Based upon that allegation, and the fact that
6 Walgreens Store Managers work at least five days per week (see Exh. G., Hose
7 Dec. ¶ 3), Walgreens assumes that Plaintiff will claim 20 hours worked per week
8 for which she was not paid overtime. Calculating 20 hours of overtime per week at
9 the above-referenced hourly rates with a start date of May 24, 2008 (the date
10 Plaintiff became a Store Manager in California) and continuing through March 10,
11 2010 (the date of Plaintiff's termination), Plaintiff is seeking approximately
12 \$56,531.60 in unpaid overtime compensation. (\$30.07 [average hourly rate of pay]
13 x 20 hours per week overtime x 94 approximate number of weeks worked by
14 Plaintiff as a California Store Manager).

15 42. Plaintiff also alleges that Walgreens "routinely interrupted and/or
16 failed to permit, and/or provide" her with 30-minute meal periods. Exh. A,
17 Complaint ¶ 43. She also contends that Walgreens denied her rest periods. Exh.
18 A, Complaint ¶ 44. Plaintiff seeks one (1) hour of pay at her regular rate of pay for
19 each workday that a meal period was not provided and one (1) hour of pay for each
20 day that a rest period was not provided. Exh. A, Complaint ¶ 44. At an average
21 hourly rate of \$30.07 and based upon the assumption that she was denied one meal
22 periods and one rest period per day, and Plaintiff worked as a Store Manager in
23 California for 94 weeks, Plaintiff is seeking \$28,265.80 (\$30.07 (Plaintiff's
24 average hourly wage) x 10 (5 meal period violations per week + 5 rest period
25 violations per week) x 94 weeks) in pay for missed meal and rest breaks for the
26 period May 24, 2008 through March 10, 2010.

27 43. Plaintiff also seeks penalties pursuant to Cal. Labor Code §226. Exh.
28 A, Complaint ¶¶ 49-53. As discussed above, Section 226 provides for a \$50

1 penalty (per employee) for the initial pay period in which a violation occurs and
2 \$100 penalty (per employee) for each subsequent pay period, not to exceed an
3 aggregate penalty of \$4,000. Starting from January 12, 2010, and calculating the
4 penalty for two pay periods, Plaintiff is seeking penalties under § 226 of \$300.00.

5 44. Plaintiff is also seeking to recover penalties under PAGA. As is
6 discussed above, PAGA provides for penalties consisting of \$100 for an initial
7 violation in a pay period and \$200 per pay period for each subsequent violation.
8 See Cal. Labor Code § 2699(f)(2). The statute of limitations for recovery of
9 penalties under PAGA is one year. Cal. Civ. Proc. Code §340(a). Plaintiff worked
10 from January 12, 2010, through March 19, 2010 during the one-year period prior to
11 filing her Complaint. Thus, since Plaintiff was paid monthly (see Exh. F,
12 Rosenberg Dec. ¶ 2(c)) as a Store Manager, she was employed for three pay
13 periods during the relevant time period. PAGA penalties attributable to Plaintiff
14 are therefore. \$500.00.

15 45. Plaintiff also seeks waiting time penalties under Cal. Labor Code
16 §203 for thirty days pay. Exh. A, Complaint ¶¶ 45-48. Plaintiff's pay at the time
17 of her termination was \$65,520.00. Her equivalent hourly wage at the time of her
18 termination was approximately \$31.50 per hour ($\$65,520.00 \text{ annual salary} \div 52$
19 $\text{weeks} = \$1,260 \div 40 \text{ hours} = \31.50). Multiplying Plaintiff's hourly rate of pay by
20 eight hours per day ($\$31.50 \times 8 \text{ hours} = \252.00), Plaintiff's daily base pay
21 earnings were approximately \$252.00. Multiplied by thirty days, ($\$252.00 \times 30$
22 days), Plaintiff seeks waiting time penalties totaling \$7,560.00.

23 46. Based on the foregoing calculations, Plaintiff is seeking
24 approximately \$85,597.40 unpaid wages and penalties (\$56,531.60 in overtime
25 compensation + \$28,265.80 in pay for meal and rest break violations + \$300.00 for
26 wage statement penalties + \$500.00 for PAGA penalties), not including attorneys'
27 fees.
28

47. In addition, however, as is discussed above, Plaintiff seeks to recover unspecified punitive damages, nominal damages, compensatory damages, disbursements and disgorgement of profits. Exh. A, Complaint ¶¶ 37, Prayer ¶¶ 1-3. The inclusion of these damages that Plaintiff seeks to recover clearly establishes that the amount in controversy as to Plaintiff's individual claims is more likely than not, in excess of \$75,000.

48. In addition, as is discussed above, if attorneys' fees are recoverable by the plaintiff under statute or contract, they are included in calculating the amount in controversy. *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1156 (9th Cir. 1998) (holding that attorneys' fees are to be included in the amount in controversy if the action is brought under a statute that "mandates or allows" the recovery of fees). Here, Plaintiff brings claims for wages under the California Labor Code, which expressly authorize an award of attorneys' fees to the prevailing party. Plaintiff, if successful, would be entitled to an award of attorneys' fees that itself would likely exceed \$75,000.00.

49. Since diversity of citizenship exists and while Walgreens denies any liability as to Plaintiff's claims, it is "more likely than not" that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, as required by 28 U.S.C. §1332(a).

VENUE

50. Venue lies in the Central District of this Court pursuant to 28 U.S.C. §§1441 and 1446(a). This action is being removed from the Superior Court of the State of California, County of Riverside. See Exh. A. Defendant believes that this action should be removed to the United States District Court for the Central District of California.

TIMELINESS OF REMOVAL

51. Plaintiff served Walgreens with the Summons and Complaint on January 27, 2011. Exh. C.

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EXHIBIT A

SUMMONS (CITACION JUDICIAL)

**NOTICE TO DEFENDANT: WALGREEN CO., an Illinois
(AVISO AL DEMANDADO): corporation, and DOES 1 through
100, inclusive**

**YOU ARE BEING SUED BY PLAINTIFF: LUISA HEHRER, as an
(LO ESTÁ DEMANDANDO EL DEMANDANTE): individual and on
behalf of all others similarly situated**

ORIGINAL

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
JAN 12 2011
I. SIRACUSA

JAN 12 2011

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

RIVERSIDE COUNTY SUPERIOR COURT
4050 Main Street
4050 Main Street
Riverside, California 92501

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Stanley D. Saltzman, Esq. (SBN 90058) (818) 991-8080 (818) 991-8081
Kiley L. Grombacher, Esq. (SBN 245960)

MARLIN & SALTZMAN

29229 Canwood Street, Suite 208, Agoura Hills, CA 91301

DATE:

(Fecha)

JAN 12 2011

Clerk, by

(Secretario)

I. Siracusa

Deputy

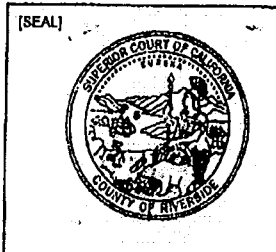
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):



Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 (Rev. July 1, 2009)

SUMMONS

Legal
Solutions
& Plus

Page 1 of 1
Code of Civil Procedure §§ 412.20, 465

MARLIN & SALTZMAN, LLP
Stanley D. Saltzman, Esq. (SBN 090058)
Marcus J. Bradley, Esq. (SBN 174156)
Kiley L. Grombacher, Esq. (SBN 245960)
29229 Canwood Street, Suite 208
Agoura Hills, California 91301
Telephone: (818) 991-8080
Facsimile: (818) 991-8081

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

JAN 12 2011

1. SIRACUSA

ELO

JAN 12 2011

UNITED EMPLOYEES LAW GROUP, PC
Walter Haines, Esq. (SBN 71075)
110 Pine Avenue, Suite 725
Long Beach, California 90802
Telephone: (888) 474-7242
Facsimile: (866) 435-7471

Attorneys for Plaintiff and the Proposed Plaintiff Class

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

1100468

LUISA HEHRER, as an individual and on
behalf of all others similarly situated,

CASE NO. **RIC**

Plaintiff,

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Overtime Wages (*Lab. Code §§ 1194, 510*);
2. Failure to Allow and Pay for Meal and Rest Periods (*Lab. Code §§ 226.7, 512*);
3. Failure to Pay Compensation Upon Discharge (*Lab. Code §§ 201-203*);
4. Failure to Provide Proper Wage Statement (*Lab. Code § 226*);
5. Violation of California Bus. & Prof. Code §§ 17200-17208);

v.

WALGREEN CO., an Illinois corporation,
and DOES 1 through 100, inclusive,

Defendants.

DEMAND FOR JURY TRIAL

Luisa Hehrer, individually and behalf of all others similarly situated, alleges the following against Walgreen Co. and DOES 1 through 100 (hereinafter sometimes collectively referred to as "Defendants"):

INTRODUCTION

1. This matter is brought as a class action pursuant to California *Code of Civil Procedure* § 382, on behalf of Plaintiff and the Plaintiff Class, which is comprised of all persons

2. Plaintiff seeks relief on behalf of herself and the Plaintiff Class based on Defendants' (a) failure to pay overtime compensation in violation of *Labor Code* § 1194 and the orders and standards promulgated by the California Division of Labor Standards Enforcement and the California Industrial Commission, (b) failure to allow and pay for meal and rest breaks pursuant to *Labor Code* §§ 220, 226.7 and 512, (c), failure to pay compensation at the time of termination in violation of *Labor Code* §§ 201-203, (d) failure to furnish Plaintiff and the Plaintiff Class with accurate itemized statements upon payment of wages as required by *Labor Code* § 226, and (e) violation of California's unfair competition laws (*Business & Professions Code* § 17200). Plaintiff and the Plaintiff Class also seek equitable remedies in the form of declaratory relief, injunctive relief, accounting, and restitution.

14 3. Plaintiff's claims are based on the erroneous misclassification of Plaintiff and
15 members of the Plaintiff Class as exempt from California's wage and hour laws which require
16 Defendants to pay overtime compensation, and provide its employees proper, statutorily required
17 meal and rest periods. In fact, Plaintiff and members of the Plaintiff Class performed non-exempt
18 job duties, and thus are, and were entitled to, but denied overtime compensation, and proper meal
19 and rest periods.

JURISDICTION AND VENUE

4. Venue is proper in this court because Defendants maintain offices and transact business within the jurisdiction of this Court, because Plaintiff Luisa Hehrer resides within the jurisdiction of this Court, and because the conduct alleged herein which gives rise to the claims asserted occurred within the jurisdiction of this Court. Specifically, Plaintiff Luisa Hehrer worked for Defendants within Riverside County, and the wages herein claimed were earned by her in Riverside County.

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THE PARTIES

5. At all times mentioned herein, Plaintiff Luisa Hehrer was, and now is, a resident of the County of Riverside, State of California.

6. Throughout the course of her employment, Plaintiff was employed in a number of Walgreen locations throughout the nation. Plaintiff first worked in Tennessee and Florida but was transferred to store number 7878 in Buena Park, California, in June of 2005. Thereafter, Plaintiff worked in Defendants' store locations in San Jacinto, Hemet, and Beaumont. In May of 2009, Plaintiff was promoted to store manager and transferred to store number 72027 in Rancho Mirage, California.

7. The members of the proposed class are likewise current and former employees of Defendants, employed by Defendants within the State of California as Store Managers.

8. Defendant Walgreen Co. is an Illinois corporation with a principal place of business in Illinois. Defendant Walgreen Co. does business in the State of California, including the County of Riverside. Defendants conduct business under the name of Walgreen Co. throughout the State of California, and employs, and has employed individuals in the position of Store Manager at its full line retail stores.

9. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged of the Defendants sued herein as DOES 1 through 100, inclusive, but on information and belief alleges that said Defendants are in some manner legally responsible for the unlawful actions, policies, and practices alleged herein, and therefore sues such Defendants by such fictitious names. Plaintiff is informed and believes, and thereon alleges, that each Defendant named herein was the agent of the other, and the agent of all Defendants. Plaintiff is further informed and believes, and thereon alleges, that each Defendant was acting within the course and scope of said agency at all relevant times herein, for the benefit of themselves, each other, and the other Defendants, and that each Defendant's actions as alleged herein was authorized and ratified by the other Defendants.

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FACTUAL ALLEGATIONS

10. Throughout the Class Period, as the same is defined herein, Plaintiff and each member of the Plaintiff Class was an exempt employee, performing job duties which are classified as non-exempt, and thus covered by one or more Industrial Welfare Commission ("IWC") Wage Orders, including, but not limited to, Wage Order Nos. 7-1989, 7-1998, 7-200, 7-2001 ("Wage Orders"), as well as Cal. Code Regs., tit. 8, § 11070, and *Labor Code* § 510, and/or other applicable wage orders, regulations and statutes.

11. Specifically, the primary job duties performed by Plaintiff and members of the Plaintiff Class were, and are, maintaining the inventory and sales floor, stocking shelves, cleaning the store, working the cash registers, and assisting customers. Plaintiff and the members of the Plaintiff Class spent the majority of their time performing these non-exempt job duties, as opposed to job duties classified as exempt under California law.

12. Plaintiff and members of the Plaintiff Class are not involved in managing Defendants' enterprise, and are not subject to any exemptions for executive, administrative or professional employees. Defendants were therefore obligated to pay Plaintiff and members of the Plaintiff Class compensation for overtime, and to provide them the statutorily mandated meal and rest periods, and/or to compensate Plaintiff therefor. However, Defendants improperly classified Plaintiff and members of the Plaintiff Class as exempt employees, exempt from the wage and hour provisions identified above.

13. Plaintiff and each member of the Plaintiff Class routinely worked in excess of the maximum regular rate hours established by the IWC in the above-described Wage Orders, regulations, and statutes, which entitled them to overtime compensation as set by law. Since at least November 15, 2006, and continuing to the present, Defendants have had a consistent policy of failing to pay wages and/or overtime to Plaintiff and members of the Plaintiff Class for all work performed and/or work over eight (8) hours per day or forty (40) per week. Relying upon, and consistent with Defendants' standard policy, practice and procedure of classifying Plaintiff and each member of the Plaintiff Class as exempt employees, Defendants failed and refused to compensate Plaintiff and members of the Plaintiff Class for overtime worked by them.

1 14. Plaintiff and each member of the Plaintiff Class were routinely not allowed meal
2 and rest breaks as required by the IWC in the above-described Wage Orders, regulations, and
3 statutes. Since at least December 21, 2006, and continuing to the present, Defendants have had a
4 consistent policy of failing to provide Plaintiff and members of the Plaintiff Class statutorily
5 required meal and rest periods. Relying upon, and consistent with Defendants' standard policy,
6 practice and procedure of classifying Plaintiff and each member of the Plaintiff Class as exempt
7 employees, Defendants failed and refused to allow Plaintiff and members of the Plaintiff Class
8 statutorily required meal and rest periods.

9 15. Plaintiff and each member of the Plaintiff Class were routinely provided wage
10 statements which do not truly and accurately reflect the number of hours worked by them, or the
11 wages due to them, specifically including but not limited to, failing to reflect hours worked
12 overtime, and overtime wages due, and compensation due for missed meal and rest breaks. Since
13 at least December 21, 2006, and continuing to the present, Defendants have had a consistent policy
14 of failing to provide Plaintiff and members of the Plaintiff Class true and accurate wage statements
15 upon payment of wages, as required by California *Labor Code* § 226(a).

16 16. Plaintiff and each member of Sub-Class No. 1 (hereinafter sometimes referred to as
17 the "Terminated Sub-Class"), whose employment with Defendants was terminated during the class
18 period, were routinely not paid, upon termination, all wages due to them, in violation of California
19 *Labor Code* section 201-203. Specifically, Plaintiff and members of the Terminated Sub-Class
20 were not paid for overtime, nor were they compensated for missed meal and rest breaks. Since at
21 least December 21, 2006, and continuing to the present, Defendants have had a consistent policy of
22 failing to provide Plaintiff and members of the Terminated Sub-Class all wages due to them upon
23 termination. Relying upon, and consistent with Defendants' standard policy, practice and
24 procedure of classifying Plaintiff and each member of the Terminated Sub-Class as exempt
25 employees, Defendants failed and refused to compensate Plaintiff and members of the Terminated
26 Sub-Class for overtime, and missed meal and rest breaks at the time their employment was
27 terminated.

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21. Common questions of law and fact exist as to all members of the Class which predominate over any questions affecting only individual members of the Class. These common legal and factual questions, which do not vary from class member to class member, and which may be determined without reference to the individual circumstances of any class member, include, but are not limited to, the following:

- a. Whether Plaintiff and members of the proposed class are subject to and entitled to the benefits of California Wage and Hour statutes;
- b. Whether Defendants misclassified Plaintiff and members of the Plaintiff Class as exempt employees under California's wage and hour laws;
- c. Whether Plaintiff and members of the Plaintiff Class are entitled to overtime compensation;
- d. Whether Defendants failed to pay overtime compensation to Plaintiff and members of the Plaintiff Class;
- e. Whether Defendants' policy and practice of classifying Plaintiff and members of the Plaintiff Class as exempt, and failing to provide them overtime compensation, violated provisions of California's wage and hour laws;
- f. Whether Plaintiff and members of the Plaintiff Class are entitled to meal and rest periods;
- g. Whether Defendants failed to provide and/or compensate Plaintiff and members of the Plaintiff Class for meal and rest periods;
- h. Whether Defendants' policy and practice of not providing Plaintiff and members of the Plaintiff Class meal and rest periods violated provisions of California's wage and hour laws;
- i. Whether Defendants unlawfully and/or willfully failed to promptly pay compensation owing to Plaintiff and members of the Terminated Sub-Class upon termination of their employment, in violation of *Labor Code* §§ 201-203;
- j. Whether Defendants unlawfully and/or willfully failed to provide Plaintiff and members of the Plaintiff Class with true and proper wage statements upon payment

of wages, in violation of *Labor Code* section 226;

k. Whether Plaintiff and members of the Plaintiff Class sustained damages, and if so, the proper measure of such damages, as well as interest, penalties, costs, attorneys' fees, and equitable relief; and

l. Whether Defendants violated the Unfair Business Practices Act of California, *Bus. & Prof. Code* § 17200, *et seq.*, by violating the above cited provisions, and treating Plaintiff and members of the Plaintiff Class unfairly by failing to pay them overtime, failing to provide them meal and rest periods, failing to pay them wages due upon termination, and failing to provide true and accurate wage statements.

22. The claims of the named Plaintiff are typical of the claims of the members of the proposed class. Plaintiff and other class members sustained losses, injuries and damages arising out of Defendants' common policies, practices, procedures, protocols, routines, and rules which were applied to other Class Members as well as Plaintiff. Plaintiff seeks recovery for the same type of losses, injuries, and damages as were suffered by other members of the proposed class.

23. Plaintiff is an adequate representative of the Class because he is a member of the Class and her interests do not conflict with the interest of the members he seeks to represent. Plaintiff has retained counsel competent experienced in prosecution of complex class actions, and together Plaintiff and her counsel intend to prosecute this action vigorously for the benefit of the Class. The interests of the Class members will fairly and adequately be protected by Plaintiff and her attorneys.

24. A class action is superior to other available methods for the fair and efficient adjudication of this litigation since individual litigation of the claims of all Class members is impracticable. It would be unduly burdensome to the courts if these matters were to proceed on an individual basis, because this would result in hundreds, and potentially thousands of individual, repetitive lawsuits. Individual litigation presents the potential for inconsistent or contradictory judgments, and the prospect of a "race to the courthouse," and an inequitable allocation of recovery among those with equally meritorious claims. By contrast, the class action device presents far fewer management difficulties and provides the benefit of a single adjudication, economics of

1 scale, and comprehensive supervision by a single court.

2 25. The various claims asserted in this action are additionally or alternatively certifiable
3 under the provisions of the California *Code of Civil Procedure* § 382 because:

- 4 a. The prosecution of separate actions by hundreds or thousands of individual class
5 members would create a risk of varying adjudications with respect to individual
6 class members, thus establishing incompatible standards of conduct for Defendants.
7 b. The prosecution of separate actions by individual class members would also create
8 the risk of adjudications with respect to them that, as a practical matter, would be
9 dispositive of the interest of the other class members who are not a party to such
10 adjudications and would substantially impair or impede the ability of such non-party
11 class members to protect their interests.
12 c. Defendants have acted or refused to act on grounds applicable to the entire Class,
13 thereby making appropriate final declaratory and injunctive relief with respect to the
14 Class as a whole.

15 **FIRST CAUSE OF ACTION**

16 **(Failure to Pay Overtime Compensation)**

17 **(By All Plaintiffs Against All Defendants)**

18 26. Plaintiff incorporates herein by reference the allegations set forth above in
19 paragraphs 1 through 25.

20 27. Pursuant to California *Labor Code* § 1194 and the applicable Industrial Welfare
21 Commission ("IWC") Wage Order, it is unlawful to employ persons without compensating them at
22 a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on
23 the number of hours worked by the person on a daily or weekly basis.

24 28. Pursuant to California *Labor Code* § 1194, the maximum hours of work and the
25 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
26 standard conditions of labor for employees. The employment of any employee for longer hours
27 than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

28 29. Pursuant to the applicable IWC Wage Order, Defendants are and were required to

1 pay Plaintiff and the other class members at the rate of time-and-one-half for all hours worked in
2 excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

3 30. The applicable IWC Wage Order further provides that Defendants are and were
4 required to pay Plaintiff and the other class members overtime compensation at a rate of two times
5 her regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

6 31. Pursuant to California *Labor Code* § 510, any work in excess of eight hours in one
7 workday and any work in excess of 40 hours in any one workweek and the first eight hours worked
8 on the seventh day of work in any one workweek shall be compensated at the rate of no less than
9 one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in
10 one day shall be compensated at the rate of no less than twice the regular rate of pay for an
11 employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall
12 be compensated at the rate of no less than twice the regular rate of pay of an employee.

13 32. Pursuant to California *Labor Code* § 510, Plaintiff and the other class members are
14 entitled to overtime compensation at one-and-one-half times the regular hourly rate for hours
15 worked in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8)
16 hours worked on the seventh day of work, and to overtime compensation at twice the regular
17 hourly rate for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
18 in a day on the seventh day of work.

19 33. During the relevant time period, Plaintiff and the other class members regularly
20 and/or consistently worked in excess of eight (8) hours in a day.

21 34. During the relevant time period, Plaintiff and the other class members regularly
22 and/or consistently worked in excess of twelve (12) hours in a day.

23 35. During the relevant time period, Plaintiff and the other class members regularly
24 and/or consistently worked in excess of forty (40) hours in a week.

25 36. Plaintiff and each member of the Plaintiff Class are entitled to overtime
26 compensation for all hours worked in excess of the hours and time specified in the Wage Orders,
27 statutes and regulations identified above.

28 37. Defendants committed the acts alleged herein knowingly and willfully, with the

1 wrongful and deliberate intention of injuring Plaintiff and the Plaintiff Class, with improper
 2 motives amounting to malice, and in conscious disregard of the rights of Plaintiff and the Plaintiff
 3 Class. Plaintiff and the Plaintiff Class are thus entitled to recover nominal, actual, compensatory,
 4 punitive, and exemplary damages in amounts according to proof at the time of trial, but in excess
 5 of the minimum jurisdiction of this Court.

6 38. Defendants' conduct described herein violates the California *Code of Regulations*,
 7 Title 8, § 11070, and *Labor Code* §§ 200, 203, 226, 226.7, 512, and 1194. Plaintiff and members
 8 of the Plaintiff Class are thus entitled to recover, in addition to the unpaid balance of overtime
 9 compensation Defendants owe them, interest, penalties, attorneys' fees, expenses and costs of suit.
 10 Plaintiff and members of the Plaintiff Class assert a claim for penalties pursuant to *Labor Code* §§
 11 201, 202, 203, 204, 210, 225.5, 223, 226, 226.3, 226, 226.3, 226.7, 227.3, 510, 512, 1194, and
 12 1194.2.

13 SECOND CAUSE OF ACTION

14 (Failure to Allow and Pay for Meal and Rest Breaks)

15 (By All Plaintiffs Against All Defendants)

16 39. Plaintiff incorporates herein by reference the allegations set forth above in
 17 paragraphs 1 through 38.

18 40. At all times herein mentioned, the Industrial Welfare Commission Order and
 19 California *Labor Code* §§ 226.7 and 512(a) were applicable to Plaintiff's and the other class
 20 members' employment by Defendants.

21 41. Pursuant to California *Labor Code* § 512(a), an employer may not employ an
 22 employee for a work period of more than five hours per day without providing the employee with a
 23 meal period of not less than 30 minutes, except that if the total work period per day of the
 24 employee is no more than six hours, the meal period may be waived by mutual consent of both the
 25 employer and employee.

26 42. *Labor Code* § 226.7(a) provides, "no employer shall require any employee to work
 27 during any meal or rest period mandated by an applicable order of the Industrial Welfare
 28 Commission."

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1 *Labor Code* §226(e), in a sum as provided by the *Labor Code* and/or other statutes.

2 **FIFTH CAUSE OF ACTION**

3 **(Unfair Competition: California *Business and Professions Code* § 17200 etc.)**

4 **(By All Plaintiff, on Behalf of Herself, the Plaintiff Class, and the**
 5 **General Public, Against All Defendants)**

6 54. Plaintiff incorporates herein by reference the allegations set forth above in
 7 paragraphs 1 through 53.

8 55. Section 17200 of the California *Business & Professions Code* prohibits any
 9 unlawful, unfair or fraudulent business act or practice. A violation of California *Business &*
 10 *Professions Code* §§ 17200, *et seq.*, may be predicated on the violation of any state or federal law.
 11 As described herein, Defendants violated California *Labor Code* §§ 201, 204, 212, 213, 226(a),
 12 226.7, 510, 1174(d), 1198, 2800, and 2802.

13 56. Plaintiff brings this cause of action in a representative capacity on behalf of the
 14 general public and the persons affected by the unlawful and unfair conduct described hereafter.
 15 Plaintiff and members of the proposed class have suffered and continue to suffer injury in fact and
 16 monetary damages as a result of Defendants' actions.

17 57. The actions by Defendants, including, but not limited to, the continuing failure to
 18 pay overtime, failure to provide meal and rest periods, failure to provide itemized wage statements,
 19 and failure to pay wages due upon termination, amount to conduct which is unlawful and a
 20 violation of law as alleged herein. As such, said conduct amounts to unfair business practices in
 21 violation of *Business and Professions Code* § 17200, *et seq.*

22 58. Defendants' conduct as herein alleged has damaged Plaintiffs and the members of
 23 the Plaintiff Class by denying them wages due and payable, and failing to provide proper wage
 24 statements. Defendants' actions are thus substantially injurious to Plaintiff and the members of the
 25 Plaintiff Class, causing them injury in fact and loss of money.

26 59. As a result of such conduct, Defendants have unlawfully and unfairly obtained
 27 monies due to the Plaintiff and the members of the Plaintiff Class.

28 60. All members of the Plaintiff Class can be identified by reference to payroll and

1 related records in the possession of the Defendants. The amount of wages due Plaintiff and
 2 members of the Plaintiff Class can be readily determined from Defendants' records. The members
 3 of the proposed class are entitled to restitution of monies due and obtained by Defendants during
 4 the Class Period as a result of defendants' unlawful and unfair conduct.

5 61. Beginning at a date unknown to Plaintiff, but at least as early as December 15, 2006,
 6 Defendants committed, and continue to commit, acts of unfair competition as defined by § 17200,
 7 *et seq.*, of the *Business and Professions Code*, by and among other things, engaging in the acts and
 8 practices described above.

9 62. Defendants' course of conduct, acts, and practices in violation of the California law
 10 as mentioned in each paragraph above constitutes a separate and independent violation of § 17200,
 11 *etc.*, of the *Business and Professions Code*.

12 63. The harm to Plaintiff and the members of the Plaintiff Class of being wrongfully
 13 denied lawfully earned and unpaid wages outweighs the utility, if any, of Defendants' policies and
 14 practices and, therefore, Defendants' actions described herein constitute an unfair business practice
 15 or act within the meaning of *Business and Professions Code* § 17200.

16 64. Defendants' conduct described herein threatens an incipient violation of
 17 California's wage and hour laws, and/or violates the policy or spirit of such laws, or otherwise
 18 significantly threatens or harms competition.

19 65. Defendants' course of conduct described herein further violates *Business and*
 20 *Professions Code* § 17200 in that it is fraudulent, illegal, improper, and unfair.

21 66. The unlawful, unfair, and fraudulent business practices and acts of Defendants, and
 22 each of them, as described herein above have injured Plaintiff and members of the Plaintiff Class
 23 in that they were wrongfully denied the timely and full payment of wages due to them.

24 PRAYER FOR RELIEF

25 WHEREFORE, Plaintiff, on behalf of herself, and on behalf of the members of the
 26 Plaintiff Class, prays for judgment against Defendants as follows:

- 27 1. For nominal damages;
- 28 2. For compensatory damages;

3. For equitable relief in the nature of declaratory relief, restitution of all monies due to plaintiff and members of the Plaintiff Class, disgorgement of profits from the unlawful business practices of Defendants, and accounting;
4. For penalties permitted by *Labor Code* §§ 201, 202, 203, 204, 210, 225.5, 223, 226, 226.3, 226, 226.3, 226.7, 227.3, 510, 512, 1194, and 1194.2;
5. For all penalties permitted by California's Private Attorney General's Act (PAGA), *Labor Code* § 2698, *et seq.*;
6. For interest accrued to date;
7. For costs of suit and expenses incurred herein pursuant to *Labor Code* §§ 226 and 1194;
8. For reasonable attorney's fees pursuant to *Labor Code* §§ 226 and 1194; and
9. For all such other and further relief that the Court may deem just and proper.

DATED: January 5, 2011

MARLIN & SALTZMAN, LLP
UNITED EMPLOYEES LAW GROUP, PC

By: 

Kiley L. Grombacher, Esq. of Marlin & Saltzman
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff requests a trial by jury on all applicable claims.

DATED: January 5, 2011

MARLIN & SALTZMAN, LLP
UNITED EMPLOYEES LAW GROUP, PC

By: 

Kiley L. Grombacher, Esq. of Marlin & Saltzman
Attorneys for Plaintiff

ORIGINAL

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Street address, city, state, and zip number, and address): Stanley D. Saltzman, Esq. (SBN 90058) Kiley L. Grombacher, Esq. (SBN 245960) MARLIN & SALTZMAN 29229 Canwood Street, Suite 208 Agoura Hills, CA 91301 TELEPHONE NO.: (818) 991-8080 FAX NO.: (818) 991-8081 ATTORNEY FOR (Name): Plaintiff Luisa Hehrer		RIC #1100468 JUDGE: DEPT:
SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE STREET ADDRESS: 4050 Main Street MAILING ADDRESS: 4050 Main Street CITY AND ZIP CODE: Riverside, California 92501 BRANCH NAME: RIVERSIDE COURT		
CASE NAME: HEHRER V. WALGREEN CO.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☒ Large number of witnesses
- b. ☒ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. ☒ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): five (5)
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: January 5, 2011

Kiley L. Grombacher, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

EXHIBIT B

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF ASSIGNMENT TO DEPARTMENT FOR CASE MANAGEMENT PURPOSES
AND CASE MANAGEMENT CONFERENCE (CRC 3.722)

HEHRER VS WALGREEN CO

CASE NO. RIC 1100468

This case is assigned to the Honorable Judge Ronald L Taylor
in Department 06 for case management purposes.
The Case Management Conference is scheduled for 07/13/11
at 8:30 in Department 06.

(Bad Mnemonic)
Case Management Conference Hearing

The plaintiff/cross-complainant shall serve a copy of this notice on
all defendants/cross-defendants who are named or added to the
complaint and file proof of service.

Any disqualification pursuant to CCP Section 170.6(2) shall be
filed in accordance with that section.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of
California, County of Riverside, and that I am not a party to this
action or proceeding. In my capacity, I am familiar with the practices
and procedures used in connection with the mailing of correspondence.
Such correspondence is deposited in the outgoing mail of the Superior
Court. Outgoing mail is delivered to and mailed by the United States
Postal Service, postage prepaid, the same day in the ordinary course
of business. I certify that I served a copy of the foregoing
notice on this date, by depositing said copy as stated above.

Dated: 01/12/11

Court Executive Officer/Clerk

By: ILZE SIRACUSA, Deputy Clerk

ac:cmc;cmcb;cmch;cmct;cmcc
cmccb;cmch;cmct

EXHIBIT C

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, Number, and address) Stanley Saltzman Marlin & Saltzman, LLP 29229 Canwood Street, Suite 208 Agoura Hills, CA 91301 TELEPHONE NO.: (818) 991-6080 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff:		POS-010 ORIGINAL FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE FEB 16 2011 R. Mc Elyea CAB FEB 17 2011 R
RIVERSIDE COUNTY SUPERIOR COURT STREET ADDRESS: 4050 MAIN ST. MAILING ADDRESS: CITY AND ZIP CODE: RIVERSIDE, CA 92501-3704 BRANCH NAME: RIVERSIDE		
PLAINTIFF/PETITIONER: Luisa Hehrer, as an individual and on behalf of all others similarly situated DEFENDANT/RESPONDENT: Walgreen Co. an Illinois Corporation, and Does 1 through 100, inclusive		CASE NUMBER: RIC 1100468
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.: Walgreen Co. Class Action

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. ☒ summons
 - b. ☒ complaint
 - c. ☒ Alternative Dispute Resolution (ADR) package
 - d. ☒ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ cross-complaint
 - f. ☒ other (specify documents): **Certificate of Counsel; Notice of Assignment to Department for Case Management Purposes and Case Management Conference**
3. a. Party served (specify name of party as shown on documents served):
Walgreen Co., an Illinois Corporation
 - b. ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
Becky DeGeorge - Manager, Authorized to accept service
4. Address where the party was served: **2730 Gateway Oaks Drive 100**
Sacramento, CA 95833
5. I served the party (check proper box)
 - a. ☒ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **01/27/2011** (2) at (time): **02:35 pm**
 - b. ☐ **by substituted service.** On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3b):
 - (1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., §415.20). I mailed the documents on (date): from (city): or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

PETITIONER: Luisa Hehrer, as an individual and on behalf of all others similarly situated	CASE NUMBER: RIC 1100468
RESPONDENT: Walgreen Co. an Illinois Corporation, and Does 1 through 100, inclusive	

- c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in Item 2 to the party, to the address shown in Item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgment of Receipt.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ by other means (specify means of service and authorizing code section):
- ☐ Additional page describing service is attached.
6. The "Notice to the Person Served" (on the summons) was completed as follows:
- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): **Walgreen Co., an Illinois Corporation**
under the following Code of Civil Procedure section:
- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.80 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |
7. Person who served papers
- a. Name: **Steven J. Weddle - Team Legal, Inc.**
- b. Address: **25876 The Old Road, Suite 314 Valencia, CA 91381**
- c. Telephone number: **(661) 964-0154**
- d. The fee for service was: **\$ 69.50**
- e. I am:
- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ registered California process server:
- (i) ☐ owner ☐ employee ☒ Independent contractor.
- (ii) Registration No.: **2010-06**
- (iii) County: **Sacramento**
8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or
9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 01/28/2011

Team Legal, Inc.
25876 The Old Road, Suite 314
Valencia, CA 91381
(661) 964-0154

Steven J. Weddle

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)

EXHIBIT D

1 SEYFARTH SHAW LLP
 Diana Tabacopoulos (SBN 128238)
 2 E-mail: dtabacopoulos@seyfarth.com
 2029 Century Park East, Suite 3500
 3 Los Angeles, California 90067-3021
 Telephone: (310) 277-7200
 4 Facsimile: (310) 201-5219

5 SEYFARTH SHAW LLP
 Jill Porcaro (SBN 190412)
 6 E-mail: jporcaro@seyfarth.com
 333 South Hope Street, Suite 3900
 7 Los Angeles, California 90071-1406
 Telephone: (213) 270-9600
 8 Facsimile: (213) 270-9601

9 Attorneys for Defendant
 WALGREEN CO.

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF RIVERSIDE

FEB 24 2011

C. Mundo

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF RIVERSIDE

13 LUISA HEHRER, as an individual and
 on behalf of all others similarly situated,

14 Plaintiffs,

15 v.

16 WALGREEN CO., an Illinois
 17 corporation, and DOES 1 through 100,
 inclusive,

18 Defendants.

Case No. RIC 1100468

(Assigned to Honorable Ronald L. Taylor,
 Dept. 6)

ANSWER TO COMPLAINT

Complaint filed: Jan. 12, 2011

22 Defendant Walgreen Co. ("Defendant") submits the following Answer to Plaintiff Luisa
 23 Hehrer's ("Plaintiff") unverified Class Action Complaint ("Complaint").

24 Pursuant to California Code of Civil Procedure §431.30(d), Defendant generally denies
 25 each and every allegation and cause of action included in Plaintiff's Complaint and, without
 26 limiting the generality of the foregoing, denies that Plaintiff or the putative class members have
 27 been damaged in any amount, or at all, by reason of any act or omission of Defendant.
 28

1
ANSWER TO COMPLAINT

13161961v.1

1 **SEPARATE ADDITIONAL DEFENSES**

2 In further answer to Plaintiff's Complaint, Defendant alleges the following additional
3 defenses. In asserting these defenses, Defendant does not assume the burden of proof as to
4 matters that, pursuant to law, are Plaintiff's burden to prove.

5 **FIRST AFFIRMATIVE DEFENSE**

6 Plaintiff's Complaint is barred because the alleged failure to pay overtime, or to give
7 meal and rest breaks, was not unlawful, unfair or fraudulent. At all times relevant and material
8 herein, Plaintiff and the putative class members were exempt from the overtime compensation
9 requirements and the meal and rest period requirements of the California Labor Code and the
10 Industrial Welfare Commission Wage Orders, because Plaintiff and the putative class members
11 are/were employed in an exempt capacity within the meaning of the applicable wage orders,
12 California law, either under the administrative or executive exemption or a combination of such
13 exemptions.

14 **SECOND AFFIRMATIVE DEFENSE**

15 Plaintiff's claims for penalties are foreclosed by virtue of Defendant's good faith and
16 reasonable belief that it was acting in accordance with California law and was not in violation of
17 any California or federal law.

18 **THIRD AFFIRMATIVE DEFENSE**

19 Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations,
20 including but not limited to, California Code of Civil Procedure §§338(a), 339, and 340, and
21 California Business & Professions Code §17208.

22 **FOURTH AFFIRMATIVE DEFENSE**

23 Plaintiff has delayed inexcusably and unreasonably in the filing of this action, causing
24 substantial prejudice to Defendant and thus, Plaintiff's claims are barred by the equitable
25 doctrine of laches.

26 **FIFTH AFFIRMATIVE DEFENSE**

27 Plaintiff's Complaint, and each and every cause of action alleged therein, is barred as
28 against Defendant by the doctrines of waiver and estoppel.

1 **SIXTH AFFIRMATIVE DEFENSE**

2 Plaintiff's Complaint, and each and every cause of action alleged therein, is barred as
3 against Defendant by the doctrine of unclean hands.

4 **SEVENTH AFFIRMATIVE DEFENSE**

5 Plaintiff and the putative class members are not entitled to any penalty award under
6 Section 203 of the California Labor Code because, at all times relevant and material herein,
7 Defendant did not willfully fail to comply with the compensation provisions of the California
8 Labor Code, including but not limited to, California Labor Code §200, *et seq.*, but rather acted in
9 good faith and had reasonable grounds for believing that it did not violate the compensation
10 provisions of the California Labor Code.

11 **EIGHTH AFFIRMATIVE DEFENSE**

12 Plaintiff lacks standing to seek injunctive relief under California Business and
13 Professions Code §§17200 *et seq.* because, *inter alia*, Plaintiff is no longer employed by
14 Defendant.

15 **NINTH AFFIRMATIVE DEFENSE**

16 Plaintiff's claims for injunctive and equitable relief are barred because Plaintiff has an
17 adequate and complete remedy at law, and/or Plaintiff cannot make the requisite showing to
18 obtain injunctive relief in a labor dispute under California Labor Code §§1138.1, *et seq.*

19 **TENTH AFFIRMATIVE DEFENSE**

20 Plaintiff failed to properly exhaust her administrative remedies, or did not exhaust those
21 remedies in a timely manner as required by law, and therefore, her legal causes of action for
22 violation of the California Labor Code Private Attorney General Act, Cal. Labor Code §§ 2698,
23 *et al.* are barred.

24 **ELEVENTH AFFIRMATIVE DEFENSE**

25 Plaintiff's claims are barred in whole or in part because a good faith dispute exists
26 regarding whether wages and/or overtime are due. 8 Cal. Code Reg. §13520.

27 ///

1 **TWELFTH AFFIRMATIVE DEFENSE**

2 Plaintiff's claims for unpaid wages are barred because Plaintiff failed to meet the
3 conditions precedent for the payment of such wages.

4 **THIRTEENTH AFFIRMATIVE DEFENSE**

5 Plaintiff's claims for unpaid wages are barred because Plaintiff failed to perform all
6 duties and obligations necessary to earn the subject wages, or otherwise failed to provide the
7 consideration required for the payment of wages.

8 **FOURTEENTH AFFIRMATIVE DEFENSE**

9 Plaintiff's Complaint and each and every claim for relief alleged therein is barred by the
10 doctrines of *res judicata* and/or collateral estoppel, to the extent that Plaintiff, any putative class
11 member or other putative beneficiary of this action, has asserted in any prior legal or
12 administrative proceeding that he or she was denied meal periods, denied rest periods, entitled to
13 payment for wages, overtime, damages, penalties under California Labor Code §§203, 226,
14 226.7, 510, 515.5, 551, 552, 1194, 1198, and did not prevail on such claim.

15 **FIFTEENTH AFFIRMATIVE DEFENSE**

16 To the extent that Plaintiff and/or members of the putative classes are entitled to
17 restitution, damages or penalties, Defendant is entitled to an offset for any overpayments of
18 wages or other consideration previously provided to those parties.

19 **SIXTEENTH AFFIRMATIVE DEFENSE**

20 Plaintiff's claims are barred, in whole or in part, pursuant to an accord and satisfaction
21 and/or are barred to the extent that Plaintiff or any putative class member has entered into or is
22 otherwise bound by compromise, settlement or release agreements regarding those claims.

23 **SEVENTEENTH AFFIRMATIVE DEFENSE**

24 Plaintiff or any putative class member is not entitled to any penalty award under the
25 California Labor Code to the extent that the penalty provisions of the applicable Labor Code
26 sections establish penalties that are unjust, arbitrary, oppressive, confiscatory and are
27 disproportionate to any damage or loss incurred as a result of Defendant's conduct, and are
28

1 unconstitutional under the U.S. Constitution and Article I, Section VII, of the California
2 Constitution.

3 **EIGHTEENTH AFFIRMATIVE DEFENSE**

4 Plaintiff, on behalf of herself and the putative class, is precluded from pursuing her
5 Complaint and each cause of action alleged in it because she failed to act upon the knowledge
6 available to her, thereby ratifying the conduct of Defendant that she complains of.

7 **NINETEENTH AFFIRMATIVE DEFENSE**

8 The alleged conduct of Defendant complained of in the Complaint was approved,
9 consented to, and/or authorized by Plaintiff and the putative class through their actions,
10 omissions, and course of conduct; accordingly, the Complaint and each purported cause of action
11 in it is barred.

12 **TWENTIETH AFFIRMATIVE DEFENSE**

13 Plaintiff does not have standing to pursue some or all of the claims she purports to assert
14 on behalf of others or a class including, but not limited to, her claims for declaratory relief, civil
15 penalties and damages under the California Labor Code, including, but not limited to, §§ 203,
16 226, 226.7, 558, 1194 and California Business and Professions Code §§ 17200 *et seq.* because,
17 *inter alia*, plaintiff, has not suffered any injury in fact or lost money or property as a result of any
18 unfair competition, and/or no penalties are available under the statutes plaintiff sues upon.

19 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

20 PAGA does not provide a valid legal basis for Plaintiff's claim because it is
21 unconstitutional on the basis that it violates the separation of powers doctrine.

22 **ADDITIONAL DEFENSES**

23 Defendant presently has insufficient knowledge or information upon which to form a
24 belief whether there may be additional, as yet unstated, defenses and reserves the right to assert
25 additional defenses in the event that discovery indicates that such defenses are appropriate.

26 Wherefore, Defendant prays for judgment as follows:

- 27 1. That Plaintiff take nothing for the Complaint;
28

- 1 2. That judgment be entered in favor of Defendant and against Plaintiff on all causes
- 2 of action;
- 3 3. That Defendant be awarded reasonable attorneys' fees according to proof;
- 4 4. That Defendant be awarded its costs of suit incurred herein; and
- 5 5. That Defendant be awarded such other and further relief as the Court may deem
- 6 appropriate.

7 DATED: February 24, 2011

SEYFARTH SHAW LLP

8
9 By 

10 Diana Tabacopoulos
11 Attorneys for Defendant
12 WALGREEN CO.
13
14
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28

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)

3 COUNTY OF LOS ANGELES)

ss

4 I am a resident of the State of California, over the age of eighteen years, and not a party
5 to the within action. My business address is 2029 Century Park East, Suite 3500, Los Angeles,
6 California 90067-3021. On February 24, 2011, I served the within documents:

7 **ANSWER TO COMPLAINT**

8 ☐ I sent such document from facsimile machine (310) 201-5219 on _____. I
9 certify that said transmission was completed and that all pages were received and that
10 a report was generated by facsimile machine (310) 201-5219 which confirms said
11 transmission and receipt. I, thereafter, mailed a copy to the interested party(ies) in this
12 action by placing a true copy thereof enclosed in sealed envelope(s) addressed to the
13 parties listed below.

14 ☒ by placing the document(s) listed above in a sealed envelope with postage thereon
15 fully prepaid, in the United States mail at Los Angeles, addressed as set forth below.

16 ☐ by personally delivering the document(s) listed above to the person(s) at the
17 address(es) set forth below.

18 ☐ by placing the document(s) listed above, together with an unsigned copy of this
19 declaration, in a sealed Federal Express envelope with postage paid on account and
20 deposited with Federal Express at Los Angeles, California, addressed as set forth
21 below.

22 ☐ by placing the document(s) listed above, together with an unsigned copy of this
23 declaration, in a sealed Overnite Express envelope with postage paid on account and
24 deposited with Overnite Express at Los Angeles, California, addressed as set forth
25 below.

26 ☐ by transmitting the document(s) listed above, electronically, via the e-mail addresses
27 set forth below.

28 ☐ electronically by using the Court's ECF/CM System.

Stanley D. Saltzman
Kiley L. Grombacher
MARLIN & SALTZMAN
29229 Canwood Street, Suite 208
Agoura Hills, CA 91301
(818) 991-8080 F: (919) 991-8081

Walter Haines
UNITED EMPLOYEES LAW GROUP, PC
110 Pine Avenue, Suite 725
Long Beach, CA 90802
(888) 474-7242 F: (866) 435-7471

1 I am readily familiar with the firm's practice of collection and processing correspondence
2 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same
3 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on
4 motion of the party served, service is presumed invalid if postal cancellation date or postage
5 meter date is more than one day after the date of deposit for mailing in affidavit.

6 I declare under penalty of perjury under the laws of the State of that the above is true and
7 correct.

8 Executed on February 24, 2011, at Los Angeles, California.

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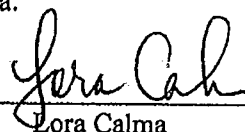

Lora Calma

EXHIBIT E

1 SEYFARTH SHAW LLP
 Diana Tabacopoulos (SBN 128238)
 2 E-mail: dtabacopoulos@seyfarth.com
 2029 Century Park East, Suite 3500
 3 Los Angeles, California 90067-3021
 Telephone: (310) 277-7200
 4 Facsimile: (310) 201-5219

5 SEYFARTH SHAW LLP
 Jill Porcaro (SBN 190412)
 6 E-mail: jporcaro@seyfarth.com
 333 South Hope Street, Suite 3900
 7 Los Angeles, California 90071-1406
 Telephone: (213) 270-9600
 8 Facsimile: (213) 270-9601

9 Attorneys for Defendant
 WALGREEN CO.

RECEIVED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF RIVERSIDE
 FEB 25 2011

10
 11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 12 FOR THE COUNTY OF RIVERSIDE

13 LUISA HEHRER, as an individual and
 on behalf of all others similarly situated,

14 Plaintiffs,

15 v.

16 WALGREEN CO., an Illinois
 17 corporation, and DOES 1 through 100,
 inclusive,

18 Defendants.

Case No. RIC 1100468

(Assigned to Honorable Ronald L. Taylor,
 Dept. 6)

**PEREMPTORY CHALLENGE
 PURSUANT TO CAL. CODE OF CIV.
 PROC. § 170.6**

Complaint filed: Jan. 12, 2011

21 I, Jill A. Porcaro, declare and state as follows:

22 1. I am an attorney admitted to practice in the State of California and I am an
 23 Associate in the Los Angeles office of Seyfarth Shaw LLP. I am one of the attorneys with
 24 primary responsibility for representing Defendant Walgreen Co. ("Defendant") in the above-
 25 captioned case. If called as a witness herein, I could and would testify to the following facts,
 26 which are within my personal, firsthand knowledge.

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 PEREMPTORY CHALLENGE

13166514v.1

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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)

3 COUNTY OF LOS ANGELES)

ss

4 I am a resident of the State of California, over the age of eighteen years, and not a party
5 to the within action. My business address is 333 S. Hope Street, Suite 3900, Los Angeles,
6 California 90071. On February 25, 2011, I served the within documents:

7 PEREMPTORY CHALLENGE PURSUANT TO CAL. CODE OF CIV. PROC. 170.6

8 ☒ by placing the document(s) listed above in a sealed envelope with postage thereon
9 fully prepaid, in the United States mail at Los Angeles, addressed as set forth below.

10 Stanley D. Saltzman
11 Marcus J. Bradley
12 Kiley L. Grombacher
13 Marlin & Salzman, LP
14 29229 Canwood Street, Suite 208
Agoura Hills, Ca 91301
818-991-8080
818-991-8081

Walter Haines
United Employees Law Group, PC
110 Pine Avenue, Suite 725
Long Beach, CA 90802
888-474-7242
866-435-7471

15 I am readily familiar with the firm's practice of collection and processing correspondence
16 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same
17 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on
18 motion of the party served, service is presumed invalid if postal cancellation date or postage
19 meter date is more than one day after the date of deposit for mailing in affidavit.

20 I declare that I am employed in the office of a member of the bar of this court whose
21 direction the service was made.

22 Executed on February 25, 2011, at Los Angeles, California.

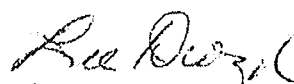
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EXHIBIT F

SEYFARTH SHAW LLP
 Diana Tabacopoulos (SBN 128238)
 E-mail: dtabacopoulos@seyfarth.com
 2029 Century Park East, Suite 3500
 Los Angeles, California 90067-3021
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SEYFARTH SHAW LLP
 Jill Porcaro (SBN 190412)
 E-mail: jporcaro@seyfarth.com
 333 South Hope Street, Suite 3900
 Los Angeles, California 90071-1406
 Telephone: (213) 270-9600
 Facsimile: (213) 270-9601

Attorneys for Defendant
 WALGREEN CO.

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

LUISA HEHRER, as an individual and
 on behalf of all others similarly situated,

Plaintiffs,

v.

WALGREEN CO., an Illinois
 corporation, and DOES 1 through 100,
 inclusive,

Defendants.

CASE NO.

DECLARATION OF JUNE
 ROSENBERG IN SUPPORT OF
 DEFENDANT'S NOTICE OF
 REMOVAL

[CLASS ACTION FAIRNESS ACT
 OF 2005, 28 U.S.C. § 1332(D)]

[Riverside Superior Court Case No.
 RIC 1100468]

[Filed concurrently with Notice of
 Removal, Certificate of Interested
 Parties, Civil Cover Sheet and
 Disclosure Statement Pursuant to Fed.
 R. Civ. Proc. 7.1]

Complaint filed: Jan. 12, 2011

DECLARATION OF JUNE ROSENBERG ISO OF DEFENDANT'S NOTICE OF REMOVAL

DECLARATION OF JUNE ROSENBERG

I, June Rosenberg, declare as follows:

1. I employed by Walgreen Co. ("Walgreens") in the position of manager of employee services. I have held this position since approximately 2004. I have personal knowledge of the following facts and could and would testify competently if called to do so.

2. In my capacity as Manager of Employee Services, I have regular access to, and am familiar with, Walgreens' data records relating to its employees. I have carefully reviewed reports derived from the Walgreens' employee data records for individuals who held the position of store manager in California ("Store Manager") for the period January 12, 2007 to February 22, 2011. These reports include information relating to each Store Manager's hire date, job position (and dates the employee held the position of Store Manager within the relevant time period from January 12, 2007 through February 22, 2011), termination date (if applicable), and salary information, all of which is maintained by Walgreens in the ordinary course of business. Based on my review of these reports, I have determined the following:

- (a) Walgreens employed approximately 677 employees as Store Managers during the period January 12, 2007 through February 22, 2011.
- (b) Walgreens employed approximately 587 Store Managers during the period January 12, 2010 to February 22, 2011.
- (c) Walgreens' Store Managers worked approximately 7,973 pay periods during the period January 12, 2010 through February 22, 2011. For the period January 12, 2007 through February 22, 2011, Walgreens Store Managers were paid once per month.

- (d) Walgreens Store Managers worked approximately 108,480 work weeks during the period January 12, 2007 through February 22, 2011.
- (e) Approximately 63 Walgreens Store Managers separated their employment from Walgreens during the period January 12, 2008 through December 13, 2010.
- (f) Walgreens Store Managers earned an average annual salary of \$73,860 during 2011 (through February 22, 2011); \$74,171.33 during the year 2010, \$73,392.33 during the year of 2009, \$72,847.75 during the year of 2008, and \$69,826.36 during the year of 2007.

3. Plaintiff Luisa Hehrer ("Hehrer") was employed by Walgreens in California as a Store Manager from May 24, 2008, through March 19, 2010. As of March 19, 2010, Hehrer's employment with Walgreens was separated. Hehrer's annualized salary during her employment as a Walgreen's Store Manager in California was as follows: \$59,040.00 during the period of May 24, 2008 through September 30, 2008; \$63,120.00 during the period of October 1, 2008 through September 30, 2009; and \$65,520.00 during the period of October 1, 2009 through the date of her separation from employment on March 19, 2010.

I declare under the penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed this 25th day of February, 2011, at Deerfield, Illinois.

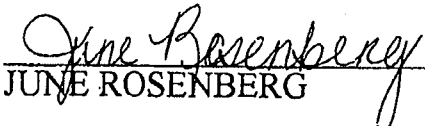

JUNE ROSENBERG

EXHIBIT G

1 SEYFARTH SHAW LLP
 Diana Tabacopoulos (SBN 128238)
 2 E-mail: dtabacopoulos@seyfarth.com
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 3 Los Angeles, California 90067-3021
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 4 Facsimile: (310) 201-5219

5 SEYFARTH SHAW LLP
 Jill Porcaro (SBN 190412)
 6 E-mail: jporcaro@seyfarth.com
 333 South Hope Street, Suite 3900
 7 Los Angeles, California 90071-1406
 Telephone: (213) 270-9600
 8 Facsimile: (213) 270-9601

9 Attorneys for Defendant
 WALGREEN CO.

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

LUISA HEHRER, as an individual and
 on behalf of all others similarly situated,

Plaintiffs,

v.

WALGREEN CO., an Illinois
 corporation, and DOES 1 through 100,
 inclusive,

Defendants.

Case No. _____
 [Riverside Superior Court Case No.
 RIC 1100468]

**DECLARATION OF
 JOHN MANN IN SUPPORT OF
 REMOVAL**

Complaint filed: Jan. 12, 2011

DECLARATION OF JOHN MANN IN SUPPORT OF REMOVAL
 CASE NO. _____

DECLARATION OF JOHN MANN

I, John Mann, declare and state as follows:

1. I am currently employed by Walgreen Co. ("Walgreens") as the Assistant Corporate Secretary and Director of Corporate Tax. In my capacity as Assistant Corporate Secretary and Director of Corporate Tax, I am familiar with Walgreens' corporate structure, operations and place of incorporation. I have personal, first-hand knowledge of the matters set forth below, and, if called upon to testify, I could and would do so competently.

2. Walgreens is now, and ever since this action commenced, has been, incorporated under the laws of the State of Illinois, with its principal place of business in Illinois.

3. Walgreens' corporate headquarters are located in Deerfield, Illinois where Walgreens' high level officers, including its Chief Executive Officer, direct, control, and coordinate Walgreens' activities. Walgreens' executive operations are managed from this location, including but not limited to, those operations relating to administering company-wide policies and procedures, legal affairs, and general business operations.

I declare under penalty of perjury under the laws of the State of Illinois and the United States of America that the foregoing is true and correct.

Executed this 24th day of February 2011 in Deerfield, Illinois.


JOHN MANN

EXHIBIT H

Feb 25 2011 10:48am P001/001

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UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)
 LUISA HEHRER, as an individual and on behalf of all others
 similarly situated

DEFENDANTS
 WALGREEN CO., an Illinois corporation, and DOES 1 through 100,
 inclusive

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
 Stanley D. Saltzman/Marcus J. Bradley/Kiley L. Grombacher
 Marlin & Saltzman, LLP
 29229 Canwood Street, Suite 208
 Agoura Hills, CA 91301
 Tel: 818-991-8080/Fax: 818-991-8081

Attorneys (If Known)
 Diana Tabacopoulos (SBN 128238)/dtabacopoulos@seyfarth.com
 Jill Porcaro (SBN 190412)/jporcaro@seyfarth.com
 SEYFARTH SHAW LLP
 333 South Hope Street, Suite 3900, Los Angeles, CA 90071-1406
 Tel: 213-270-9600/Fax: 213-270-9601

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
 (Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN (Place an X in one box only.)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☒ Yes ☐ No

☐ **MONEY DEMANDED IN COMPLAINT: \$** **NOT STATED**

VI. CAUSE OF ACTION (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 Petition for Removal-28 U.S.C. §§1332(d)(2) (Class Action Fairness Act), §1332(a)(c) (diversity), Putative class action alleging violation of Cal. Labor Code §§1194, 510, 226.7, 512, 201-203, & 226, and Unfair Competition under Cal. Bus. & Prof Code §17200, et seq.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 22 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 61 HIA(1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW 405(g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: **ED CV 11 - 00340 VAP (JEMx)**

By Fax

ORIGINAL

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Riverside	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Illinois	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Plaintiff alleges a statewide California putative Class Action	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Jill A. Porcaro
 Jill A. Porcaro

Date February 25, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3 -1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Virginia A. Phillips and the assigned discovery Magistrate Judge is John E. McDermott.

The case number on all documents filed with the Court should read as follows:

EDCV11- 340 VAP (JEMx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☒ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.